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Attorney of Record:
Tracey S. Bernstein, Esq. (TB-0405)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
RAYMOND VAN COTT,

Plaintiff,

-against-

MELLON FINANCIAL CORPORATION,

Defendant.
-----X

**PLAINTIFF'S NOTICE OF MOTION
TO REMAND THIS MATTER BACK
TO STATE COURT**

2007 Civ. 5578 (MGC)(RLE)

ECF FILED

Upon the Declaration of Tracey S. Bernstein, Esq. and, sworn to on the 16TH day of August, 2007; the exhibits attached thereto; the memorandum of law in support of this motion; all pleadings filed in this case; and the Notice of Removal filed on June 11, 2007, plaintiff Raymond Van Cott ("plaintiff") hereby moves this Court, pursuant to 28 U.S.C. §1447(c), for an order remanding this matter back to New York State Supreme Court, New York County on the grounds that this Court lacks subject matter jurisdiction over the claim at issue.

This motion shall be heard at the United States Courthouse, Room 14A, 500 Pearl Street, New York, New York at 10:15 in the forenoon on September 27, 2007, or at such other time as this Court directs.

WHEREFORE, plaintiff Raymond Van Cott prays this matter be remanded back to New York State Supreme Court, New York County.

Dated: New York, New York
August 16, 2007

Respectfully submitted,

HIMMEL & BERNSTEIN, LLP

By: 

TRACEY S. BERNSTEIN (TB-0405)
Attorneys for Plaintiff
928 Broadway, Suite 1000
New York, NY 10010
(212) 631-0200

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UNITED STATES DISTRICT COURT
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ORDER OF THE COURT

2007 Civ. 5578 (MGC)(RLE)

AND NOW, this ___ day of _____, 2007, Plaintiff Raymond Van Cott having filed a motion to Remand this case back to New York State Supreme Court, New York County, the Defendant having responded and the Court having given this matter due consideration, **IT IS ORDERED** that the motion be, and same hereby is **GRANTED** and the Clerk of the Court is directed to remand this matter back to New York State Supreme Court, New York County.

J.

CERTIFICATE OF SERVICE

I, Tracey S. Bernstein, hereby certify that on August 16, 2007, I caused the annexed PLAINTIFF'S MOTION TO REMAND THIS MATTER BACK TO STATE COURT to be served upon defendant's counsel listed below by filing it with the Court by means of the Court's Electronic Case Filing System pursuant to Fed. R. Civ. P. 5 and Local Rule 5.2.

Paul P. Rooney
Reed Smith LLP
599 Lexington Avenue
New York, NY 10022

Dated: New York, New York
August 16, 2007

A handwritten signature in black ink, appearing to be 'T. Bernstein', written over a horizontal line.

Tracey S. Bernstein (TB 0405)